

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Applications of)	
)	
ILLINOIS CENTRAL COLLEGE)	FCC File No. 0001232040
)	
Requests for Waiver To Allow The Use Of)	
20 kHz Bandwidth Adjacent to Public Safety)	
Interoperability Channels)	

ORDER

Adopted: February 17, 2004

Released: February 19, 2004

By the Deputy Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. We have before us an application filed by Illinois Central College, East Peoria, Illinois (“ICC”).¹ The application requests a waiver of Section 90.20(d)(81)² of the Commission’s Rules to allow operation with a 20 kHz authorized bandwidth on a channel adjacent to channels designated for public safety interoperability communications.³ For the reasons discussed herein, we grant ICC’s waiver request.

II. BACKGROUND

2. ICC has an enrollment of 4,000 full-time and 9,000 part-time students per semester. Its main campus is in East Peoria (Main Campus), and it also has a campus in downtown Peoria (Downtown Campus). ICC has been operating Station KUU388, East Peoria, Illinois, since the late 1960s to provide grounds, maintenance, custodial, environmental, transportation and public safety communication for both the Main and Downtown Campuses.⁴ In 2003, ICC opened a new location, the North Campus, located approximately six miles northwest of the Main Campus. ICC seeks to modify its license for Station KUU388 by adding a base station transmitting at the North Campus.

3. ICC requests a waiver of Section 90.20(d)(81) of the Commission’s Rules in connection with this application in order to operate with a 20 kHz authorized bandwidth on the frequency of 453.2250 MHz. ICC maintains that the waiver is needed to provide backward compatibility with existing

¹ FCC File No. 0001232040 (filed Mar. 12, 2003, amended June 23, 2003).

² Due to an error in the letter instructing ICC to amend its application to request a waiver, ICC requested a waiver of Section 90.35(c)(81), rather than Section 90.20(d)(81). *See* Ref. No. 1891370 (May 23, 2003). We will deem ICC’s application to have requested a waiver of Section 90.20(d)(81).

³ *See* attachment to FCC File No. 0001232040.

⁴ *Id.* at 1.

equipment that is incapable of 11.25 kHz authorized bandwidth operation. ICC is a publicly funded institution, and ICC represents that the State of Illinois's current fiscal situation renders ICC unable to purchase new radio equipment at this time.⁵

4. Section 90.20(d)(81) limits the bandwidth on frequency 453.2250 MHz to a maximum authorized bandwidth of 11.25 kHz because this channel is immediately adjacent to channels designated for public safety interoperability communications.⁶ The adjacent channels became available primarily for public safety interoperability communications on December 7, 2000.⁷

III. DISCUSSION

5. To obtain a waiver of the Commission's Rules, a petitioner must demonstrate either that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case and that grant of the waiver would be in the public interest;⁸ or that, in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁹ We believe that ICC has demonstrated that grant of a waiver is warranted under the circumstances presented.

6. We conclude that the underlying purpose of Section 90.20(d)(81) would not be frustrated and would be served if this rule were waived under the circumstances presented. The purpose of Section 90.20(d)(81) is to limit the authorized bandwidth of new stations on channels adjacent to the public safety interoperability channels to 11.25 kHz while permitting existing licensees to operate with a wider bandwidth on a co-primary basis until January 1, 2005. After that date, all stations, whether new or existing, operating on channels adjacent to the interoperability channels have a choice to either: (a) operate with 11.25 kHz authorized bandwidth in order to retain co-primary status, or (b) operate with authorized bandwidths wider than 11.25 kHz and become secondary to adjacent channel interoperability operations.¹⁰

7. ICC is currently authorized to operate on the frequency at issue (453.2250 MHz) on Station KUU388. The continued renewal of this license would allow ICC to operate existing equipment with 20 kHz authorized bandwidth until January 1, 2018.¹¹ Under the existing license, ICC can operate at 20 kHz authorized bandwidth on a co-primary basis to operations on the interoperability channels until January 1, 2005. After January 1, 2005, ICC can either retain primary status by transitioning to an 11.25 kHz authorized bandwidth or accept secondary status to adjacent channel interoperability operations.

⁵ See *id.*

⁶ 47 C.F.R. § 90.20(d)(81). Section 90.20(d)(81) provides that: "After December 7, 2000, new stations will only be licensed with an authorized bandwidth not to exceed 11.25 kHz. Licensees authorized prior to December 7, 2000 may continue to use bandwidths wider than 11.25 kHz on a co-primary basis until January 1, 2005."

⁷ See 47 C.F.R. § 90.20(d)(80). The four UHF interoperability channel pairs are: 453/458.2125 MHz, 453/458.4625 MHz, 453/458.7125 MHz, and 453/458.8625 MHz.

⁸ 47 C.F.R. § 1.925(b)(3)(i).

⁹ 47 C.F.R. § 1.925(b)(3)(ii).

¹⁰ Secondary operations may not cause interference to primary interoperability use. 47 C.F.R. § 90.7.

¹¹ See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WT Docket No. 99-87, 18 FCC Rcd 3034, 3042 ¶ 19 (2003), *recon. pending*. Specifically, the FCC amended its rules to impose a deadline for migration to 12.5 kHz technology for non-public safety PLMRS systems operating on those bands, beginning January 1, 2013 and for public safety systems operating on those bands, beginning January 1, 2018. *Id.*

8. Granting the waiver request will allow ICC to expand coverage on the same channels and with the same bandwidth that it currently operates. We believe that, under the circumstances presented, granting the waiver request would neither impede the Commission's interoperability goals nor would it undermine the purpose of the rule or frustrate application of the rule to ICC. The daily operation of ICC's communications system affects the health, safety and welfare of thousands of students. Accordingly, we conclude that granting the waiver request associated with the captioned applications is in the public interest.¹² We therefore grant ICC's request for a waiver of Section 90.20(d)(81) of the Rules to the extent that its operations cause no interference to any adjacent channel interoperability communications after January 1, 2005. Consequently, we reserve the discretion to revisit the continuation of such authority should we receive complaints from other public safety licensees in the future.

IV. ORDERING CLAUSES

9. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the waiver request filed by Illinois Central College, East Peoria, Illinois, on June 23, 2003, with respect to FCC File Numbers 0001232040 IS GRANTED on the CONDITION that ICC's operations on the locations and frequencies added by the subject modifications will be authorized on a secondary, non-interference basis to adjacent channel public safety interoperability communications after January 1, 2005.

10. IT IS FURTHER ORDERED, pursuant and Section 4(i) and 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 309(a), that the Public Safety and Critical Infrastructure Division SHALL PROCESS FCC File No. 0001232040 in accordance with this *Order*.

11. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Herbert W. Zeiler
Deputy Chief, Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau

¹² See Gaston County, North Carolina, *Order*, DA 04-60, ¶ 8 (WTB PSCID rel. Jan. 15, 2004); Kern County, California, *Order*, 18 FCC Rcd 26685, 26687 ¶ 8 (WTB PSCID 2003).